

CLERK'S OFFICE U.S. DIST. COURT
AT HARRISONBURG, VA
FILED

NOV 17 2004

IN UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

JOHN F. CORCORAN, CLERK
BY: *K. Dotson*
DEPUTY CLERK

RUBBERMAID COMMERCIAL)
PRODUCTS LLC)
3124 Valley Avenue)
Winchester, Virginia 22601)
)
Plaintiff,)
)
v.)
)
TISA CANADA, INC.)
d/b/a TISA INTERNATIONAL)
)
Defendant.)

CIVIL ACTION NO. 5:04CV00108

JUDGE: Conrad

For its Complaint against Defendant TISA Canada, Inc. d/b/a TISA International ("TISA"), Plaintiff Rubbermaid Commercial Products LLC. ("Rubbermaid") states as follows:

PARTIES

1. Plaintiff Rubbermaid is a corporation organized and existing under the laws of the State of Virginia and having a place of business at 3124 Valley Avenue, Winchester, Virginia 22601.

2. Upon information and belief, Defendant TISA is a foreign corporation having places of business in Canada and China and offering products for sale in the United States. Upon further information and belief, Defendant TISA is an alien company.

JURISDICTION

3. This action arises under the Patent Laws of the United States, Title 35, United States Code § 271(a). This Court has jurisdiction under 28 U.S.C. § 1338(a).

4. Venue is proper in this district under 28 U.S.C. § 1391(b) and (d).

COUNT I: INFRINGEMENT OF THE '879 PATENT

5. Rubbermaid incorporates by reference herein the allegations of Paragraphs 1-4 of its Complaint.

6. Rubbermaid is engaged in the manufacture and sale of cleaning products, among other things, and is the owner of U.S. Design Patent No. D468,879 (“the ‘879 Patent”) for a “dust pan with wear reducing members.” A true and accurate copy of the ‘879 Patent is attached as Exhibit A.

7. TISA has infringed and continues to infringe the ‘879 Patent through its manufacture, sale, offer for sale and/or use of dust pans within the United States, illustrated in the attached Exhibit B, having substantially the same design and incorporating the novel features of the dust pan claimed in the ‘879 Patent.

8. TISA has knowingly and willfully infringed the ‘879 Patent.

9. TISA’s infringement of the ‘879 Patent has and will continue to cause Rubbermaid damage and irreparable harm unless enjoined by this Court.

COUNT II: INFRINGEMENT OF THE '610 PATENT

10. Rubbermaid incorporates by reference herein the allegations of Paragraphs 1-9 of its Complaint.

11. Rubbermaid is engaged in manufacture and sale of cleaning products, among other things, and is the owner of U.S. Design Patent No. D461,610 (“the ‘610

Patent”) for a “dust pan with wear reducing member.” A true and accurate copy of the ‘610 Patent is attached as Exhibit C.

12. TISA has infringed and continues to infringe the ‘610 Patent through its manufacture, sale, offer for sale and/or use of dust pans within the United States, illustrated in the attached Exhibit B, having substantially the same design and incorporating the novel features of the dust pan claimed in the ‘610 Patent.

13. TISA has knowingly and willfully infringed the ‘610 Patent.

14. TISA’s infringement of the ‘610 Patent has and will continue to cause Rubbermaid damage and irreparable harm unless enjoined by this Court.

COUNT III: INFRINGEMENT OF THE ‘705 PATENT

15. Rubbermaid incorporates by reference herein the allegations of Paragraphs 1-14 of its Complaint.

16. Rubbermaid is engaged in the manufacture and sale of cleaning products, among other things, and is the owner of U.S. Design Patent No. D379,705 (“the ‘705 Patent”) for a “post for cart.” A true and accurate copy of the ‘705 Patent is attached as Exhibit D.

17. TISA has infringed and continues to infringe the ‘705 Patent through its manufacture, sale, offer for sale and/or use of cart posts within the United States, illustrated in the attached Exhibit B, having substantially the same design and incorporating the novel features of the cart post claimed in the ‘705 Patent.

18. TISA has knowingly and willfully infringed the ‘705 Patent.

19. TISA’s infringement of the ‘705 Patent has and will continue to cause Rubbermaid damage and irreparable harm unless enjoined by this Court.

COUNT IV: INFRINGEMENT OF THE '321 PATENT

20. Rubbermaid incorporates by reference herein the allegations of Paragraphs 1-19 of its Complaint.

21. Rubbermaid is engaged in the manufacture and sale of cleaning products, among other things, and is the owner of U.S. Design Patent No. D374,321 (“the ‘321 Patent”) for a “mop bucket.” A true and accurate copy of the ‘321 Patent is attached as Exhibit E.

22. TISA has infringed and continues to infringe the ‘321 Patent through its manufacture, sale, offer for sale and/or use of mop buckets within the United States, illustrated in the attached Exhibit B, having substantially the same design and incorporating the novel features of the mop bucket claimed in the ‘321 Patent.

23. TISA has knowingly and willfully infringed the ‘321 Patent.

24. TISA’s infringement of the ‘321 Patent has and will continue to cause Rubbermaid damage and irreparable harm unless enjoined by this Court.

COUNT V: INFRINGEMENT OF THE '941 PATENT

25. Rubbermaid incorporates by reference herein the allegations of Paragraphs 1-24 of its Complaint.

26. Rubbermaid is engaged in the manufacture and sale of cleaning products, among other things, and is the owner of U.S. Design Patent No. D362,941 (“the ‘941 Patent”) for a “combined mop bucket and wringer.” A true and accurate copy of the ‘941 Patent is attached as Exhibit F.

27. TISA has infringed and continues to infringe the '941 Patent through its manufacture, sale, offer for sale and/or use of mop buckets having a wringer within the United States, illustrated in the attached Exhibit B, having substantially the same design and incorporating the novel features of the combined mop bucket and wringer claimed in the '941 Patent.

28. TISA has knowingly and willfully infringed the '941 Patent.

29. TISA's infringement of the '941 Patent has and will continue to cause Rubbermaid damage and irreparable harm unless enjoined by this Court.

PRAYER FOR RELIEF

Plaintiff Rubbermaid prays for the following relief:

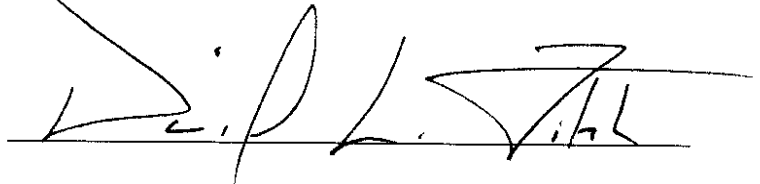
1. A judgment that TISA has infringed and continues to infringe Rubbermaid's '879, '610, '705, '321 and '941 Patents.
2. A judgment that TISA's infringement has been willful.
3. A judgment against TISA awarding Rubbermaid damages pursuant to 35 U.S.C. §§ 284 and 289 on account of TISA's infringement of the '879, '610, '705, '321 and '941 Patents.
4. A judgment that Rubbermaid's damages be trebled and that punitive damages be assessed against TISA in accordance with 35 U.S.C. § 284.
5. A preliminary injunction against TISA and its servants, agents, officers, employees, divisions, subsidiaries and any entity acting in concert with it, pursuant to 35 U.S.C. § 283, from infringing Rubbermaid's '879, '610, '705, '321 and '941 Patents.

6. A permanent injunction against TISA and its servants, agents, officers, employees, divisions, subsidiaries and any entity acting in concert with it, pursuant to 35 U.S.C. § 283, from infringing Rubbermaid's '879, '610, '705, '321 and '941 Patents.

7. A judgment that this is an exceptional case and that Rubbermaid be awarded reasonable attorney fees pursuant to 35 U.S.C. § 285.

8. A judgment that TISA be directed to pay Rubbermaid its costs incurred herein and such other and further relief as the Court deems just and equitable.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Daniel L. Fitch', written over a horizontal line.

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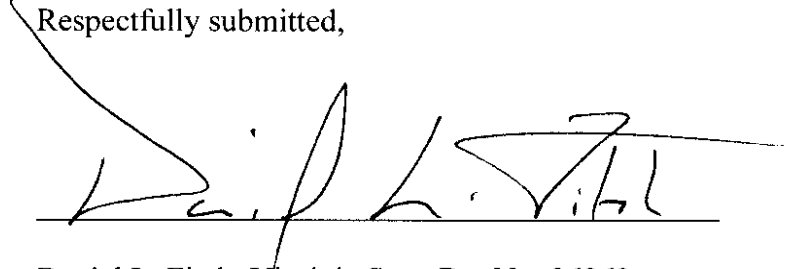
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JURY DEMAND

Plaintiff Rubbermaid respectfully requests a trial by jury as to all issues so triable.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel L. Fitch", written over a horizontal line.

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